

1 Wes Williams Jr.
2 Nevada Bar No. 6864
3 Law Offices of Wes Williams Jr., P.C.
4 P.O. Box 100
5 Schurz, NV 89427
6 (775) 530-9789
7 wwilliamslaw@gmail.com

8 Jacqueline De León, Esq. (*pro hac vice* forthcoming)
9 California Bar No. 288192
10 NATIVE AMERICAN RIGHTS FUND
11 1506 Broadway
12 Boulder, CO 80302-6296
13 (303) 447-8760
14 jdeleon@narf.org

15 Samantha B. Kelty, Esq. (*pro hac vice* forthcoming)
16 Arizona Bar No. 024110, Texas Bar No. 24085074
17 NATIVE AMERICAN RIGHTS FUND
18 1514 P St NW Ste. D
19 Washington, DC 20005
20 (928) 814-8922
21 kelty@narf.org

22 *Attorneys for Proposed Intervenor-Defendants, Pyramid Lake Paiute and*
23 *Walker River Paiute Tribes*

24 **UNITED STATES DISTRICT COURT**
25 **FOR THE DISTRICT OF NEVADA**

26 DONALD J. TRUMP FOR
27 PRESIDENT, INC., REPUBLICAN
28 NATIONAL COMMITTEE, AND
NEVADA REPUBLICAN
PARTY,

Plaintiffs,

vs.

BARBARA CEGAVSKE, in her
official capacity as Nevada Secretary
of state,

Case No.: 2:20-cv-01445-JCM-VCF

MOTION TO INTERVENE

EXPEDITED BRIEFING
SCHEDULE REQUESTED

Defendants

and

DNC SERVICES
CORPORATION/DEMOCRATIC
NATIONAL COMMITTEE, DCCC,
and
NEVADA STATE DEMOCRATIC
PARTY,

Intervenor-
Defendants

and

PYRAMID LAKE PAIUTE TRIBE
AND WALKER RIVER PAIUTE
TRIBE,

Proposed Intervenor-
Defendants.

Pursuant to Federal Rule of Civil Procedure 24, proposed intervenor-defendants Pyramid Lake Paiute Tribe (“Pyramid Lake”) and Walker River Paiute Tribe (“Walker River”) (jointly “proposed tribal intervenors”), sovereign, federally recognized tribes located in Nevada, move to intervene as defendants in the above-titled action. This motion is consented to by Defendant Cegavske and DNC Intervenor-Defendants. Plaintiffs oppose. Because this case is time sensitive, proposed tribal intervenors request expedited review.

OVERVIEW

Since Nevada’s founding, Native American voters have fought for an equal opportunity to vote. As recently as 2016, Pyramid Lake and Walker River brought a Section 2 Voting Rights Act claim and successfully secured more equitable on reservation polling places and early voting sites. *Sanchez v.*

1 *Cegavske*, 214 F. Supp. 3d 961 (D. Nev. 2016). This year, in response to the
2 global COVID-19 pandemic Nevada, understandably, conducted its primary
3 election entirely by mail in ballot. Despite being a well-intentioned means to
4 combat the deadly COVID-19 outbreak, the move to vote by mail uniquely and
5 severely burdened the ability of Native Americans in Nevada to vote and
6 undermined the recent gains the tribes won in their Section 2 litigation.
7 Geographic isolation, significant distance from post offices, limited rural post
8 office hours, lack of transportation options, lack of Internet access, and other
9 socio-economic factors, compounded by the COVID-19 pandemic, make it very
10 difficult for Walker River Paiute and Pyramid Lake members to cast their ballots
11 by mail.

12 Unlike most of the rest of the Nevadan electorate, of the over 32,000
13 Native Americans living in Nevada, many tribal members living on reservations
14 in Nevada do not receive residential mail delivery and therefore cannot safely
15 vote by mail from home. Only 35% of all reservations and colonies have home
16 mail service. For the 2020 primary election there were no ballot drop boxes
17 located on either of proposed tribal intervenors' reservations. The approximate
18 2,500 tribal members who live on the Walker River Paiute and Pyramid Lake
19 Paiute reservations have no residential mail service and receive mail, including
20 election mail, through P.O. Boxes. More often than not, they drop off mail at the
21 nearest open post office.

22 However, accessing the post office is difficult for many Native Americans
23 living on rural reservations. In Nevada, nine out of the fourteen reservations and
24 colonies lack a post office within jurisdictional boundaries. These post offices are
25 open and staffed for limited hours. If a Native voter wishes to guarantee that their
26 ballot is post-marked, they have to go into a post office to mail their ballot during
27 operating hours and request a postmark. In Nevada, no post office located on a
28 reservation or colony is open for more than 6 hours. The average distance from a

1 reservation or colony to a post office location open 7.5 hours or more is 53.88
2 miles – 107.76 miles round trip. For example, Native Americans from Owhyee
3 (where the Duck Valley reservation is located) must travel 97.2 miles, 194.4
4 miles round trip – to Elko in Elko County if they wish to utilize a post office open
5 7.5 hours or more.

6 Transportation is also a barrier for Native Americans attempting to pick up
7 or drop off mail. Due to disproportionately high rates of poverty, many Native
8 Americans lack regular access to a working vehicle, money for gasoline, or car
9 insurance. And 12.8% of Native Americans in Nevada have no access to a vehicle
10 at all. In proposed tribal intervenors' communities, many tribal members share
11 one vehicle among a large household. Due to housing shortages, it is common to
12 have 7-10 people sharing a small home. Often, the single working car is used to
13 commute to off-reservation employment and is not available for use during the
14 workday to the rest of the household. This lack of transportation means it is
15 especially difficult to pick up and drop off mail from the post office.

16 Not only are post offices more difficult for Native Americans to access,
17 delivery of the mail coming to and from post offices serving Native Americans
18 is often slow. For example, if a resident mails a letter from Schurz, Nevada (the
19 only town on the Walker River reservation) to the nearest city of Hawthorne
20 (roughly 34 miles away), the mail will first travel to Reno, Nevada – 90 miles
21 away – to be sorted before it is sent back to Hawthorne. These circuitous routes
22 add delivery time to mail sent to and from reservation communities.

23 Ballots sent by Native Americans must also travel much further than the
24 ballots sent by non-Natives. The county seats responsible for counting returned
25 ballots are unreasonably far from Native American reservations. On average, the
26 distance from the fourteen reservations and colonies to their county seat is 66.75
27 miles. The Goshute Reservation is 135 miles away from Ely in White Pine
28 County, their county seat.

Given these obstacles, the move to all vote by mail resulted in depressed Native American turnout for the 2020 primary election conducted entirely by mail. For example, despite being the largest precinct in Mineral County, the precinct where the Walker River Paiute reservation votes – tribal precinct 11 – had the lowest voter turnout at just 21.93%. Get out the vote activists on both the Walker River and Pyramid Lake reservations report the move to vote by mail hindered Native American turnout.

Nevertheless, voting by mail – in conjunction with on-reservation voting sites – remains an important option to combat the ongoing COVID-19 outbreak. Native communities are especially vulnerable to COVID-19. Despite significant data limitations facing researchers interested in tracking COVID-19 rates among Native Americans,¹ it is clear that Native Americans are being impacted by COVID-19 to a greater extent than non-Hispanic whites. Recent analysis of 23 states with adequate racial/ethnic data, including Nevada, conducted by the Center for Disease Control finds that Native Americans are 3.5 times more likely to test positive for COVID-19 than non-Hispanic whites.² The CDC report also reveals that infection rates among Native Americans in these states are exacerbated for those over the age of 65 who are most vulnerable to the virus. In

¹ Stephanie Russo Carroll, et al., *Indigenous Data in the Covid-19 Pandemic: Straddling Erasure, Terrorism, and Sovereignty*, Social Science Research Council (July 11, 2020), <https://items.ssrc.org/covid-19-and-the-social-sciences/disaster-studies/indigenous-data-in-the-covid-19-pandemic-straddling-erasure-terrorism-and-sovereignty/>.

² *COVID-19 Among American Indian and Alaska Native Persons — 23 States, January 31–July 3, 2020*, early release to Morbidity and Mortality Weekly Report (MMWR), CDC (Aug. 19, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6934e1.htm#contribAff>.

1 early May, the Pyramid Lake Paiute Tribe announced 20 positive cases on their
2 reservation. Although this may not seem like a high number, with only 1,300
3 tribal members, the 20 cases represent a significant outbreak. The Walker River
4 Tribe is currently battling an on reservation outbreak as well. Given these
5 vulnerabilities, vote by mail should remain an option for those tribal members
6 who can manage it; in-person voting options must remain for those who cannot.

7 To better prepare for the upcoming general election to be held during the
8 COVID-19 pandemic, the Nevada Legislature enacted Assembly Bill 4 (“A.B.
9 4”). *See* A.B.4, 32nd Leg, Spec. Sess. (Nev. 2020), available at
10 <https://www.leg.state.nv.us/App/NELIS/REL/32nd2020Special/Bill/7150/Text>.
11 Three provisions of A.B. 4 are especially critical for Native American
12 communities.

13 First, given the obstacles to picking up and dropping off mail, it is
14 extremely common for Native Americans in Nevada to pick up and drop off mail
15 for each other. However, Nevada criminalizes the collection and delivery of an
16 absentee or mail-in ballot by anyone other than a family member, subjecting the
17 person assisting the voter to imprisonment for a minimum of 1 year and up to 4
18 years, and a fine of up to \$5,000, and creates additional administrative hurdles
19 for family members returning a ballot. NRS §§ 293.330(4), 293.353(4),
20 293.730(1)(b), 293.730(1)(g), 293.730(2)(a), and 293.730(2)(b). These ballot
21 assistance bans, among the most stringent in the country, disproportionately
22 burden Native American communities. In the short term, A.B. 4 provides much-
23 needed relief to Native Americans by suspending the ballot assistance bans in
24 times of emergency, allowing non-family members, such as individuals, political
25 parties, community organizers, and other groups like the Walker River Paiute
26 Community Health Representatives, to safely return a ballot for one another in
27 the upcoming election. A.B. 4, § 21.
28

1 Second, A.B. 4 clarifies that mail ballots “received by mail no later than 5
2 p.m. on the third day following the election and the date of the postmark cannot
3 be determined, the mail ballot shall be deemed to have been postmarked on or
4 before the day of the election.” A.B. 4, § 20 (b)(2). Given the distance to post
5 offices and shortened operational hours, it is more difficult for Native Americans
6 to ensure their ballots are post-marked than other Nevadan voters. Additionally,
7 it takes longer for ballots coming from Native communities to reach county seats
8 because circuitous mail routes delay mail coming from Native American
9 communities. Finally, mail ballots must travel much further because county seats
10 are excessively far from Native reservations, especially when compared to non-
11 Native communities.

12 Third, A.B.4 provides important mechanisms for tribes to request and
13 receive early on-reservation polling locations, which provides an important
14 alternative for those unable to vote by mail. A.B.4 § 11(3).³

15 Plaintiffs Donald J. Trump for President, Inc., the Republican National
16 Committee, and the Nevada Republican Party challenge these three critical
17 protections provided by A.B. 4, along with other provisions that benefit Native
18 American voters in Nevada. These efforts directly threaten proposed tribal
19 intervenors’ rights and the ability of Native Americans in Nevada to cast their
20 ballots and have those ballots count.

21 Proposed tribal intervenors are entitled to intervene in this case as a matter
22 of right under Federal Rule of Civil Procedure 24(a)(2). In the alternative,
23 proposed tribal intervenors request permissive intervention pursuant to Rule
24 24(b).

25
26 ³ The extended deadlines have since passed but A.B.4 may apply to future
27 emergencies.
28

STANDARD OF LAW

Intervention of right can be exercised by anyone who “claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” Fed. R. Civ. P. 24(a)(2). The 9th Circuit applies a four-part test under Rule 24(a):

- (1) the application for intervention must be timely;
- (2) the applicant must have a ‘significantly protectable’ interest relating to the property or transaction that is the subject of the action;
- (3) the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect that interest; and
- (4) the applicant's interest must not be adequately represented by the existing parties in the lawsuit.

Nw. Forest Res. Council (“NFRC”) *v. Glickman*, 82 F.3d 825, 836 (9th Cir.1996). Intervention under Rule 24(a) is construed liberally in favor of potential intervenors. *Forest Conservation Council* (“FCC”) *v. U.S. Forest Serv.*, 66 F.3d 1489, 1493 (9th Cir.1995) (abrogated on other grounds). Requests for intervention are “guided primarily by practical considerations,” not technical distinctions. *United States v. Stringfellow*, 783 F.2d 821, 826 (9th Cir.1986), *vacated on other grounds sub nom. Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370 (1987).

ARGUMENT

I. Proposed Tribal Intervenors Are Entitled to Intervene As a Matter of Right

Proposed tribal intervenors meet the 9th Circuit’s four-factor test and have a right to intervene in this action.

1 First, the motion is timely. “Timeliness is a flexible concept; its
2 determination is left to the district court’s discretion.” *United States v. Alisal*
3 *Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004). In determining whether a motion
4 to intervene is timely, courts consider: “(1) the stage of the proceeding at which
5 an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the
6 reason for and length of the delay.” *Id.* (citation omitted).

7 Proposed tribal intervenors moved to intervene at an appropriate state in
8 the proceeding. Plaintiffs filed their operative complaint on August 20, 2020,
9 approximately three weeks ago. Motions filed much later nevertheless have been
10 found to be timely. *See Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647
11 F.3d 893, 897 (9th Cir. 2011) (finding a motion to intervene was timely when
12 filed “less than three months” after the complaint was filed); *W. Expl. LLC v. U.S.*
13 *Dep’t of Interior*, Case No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122, at *2
14 (Jan. 28, 2016) (granting motion to intervene filed nearly two months after
15 action). Defendant Cegavske moved to dismiss on August 24, 2020 (ECF No.
16 37), alleging Plaintiffs lack standing and their claims are not ripe. Plaintiffs
17 responded to this motion on September 8, 2020. The DNC Services
18 Corporation/Democratic National Committee, DCCC, and Nevada State
19 Democratic Party (“DNC intervenor-defendants”) filed a similar motion to
20 dismiss on September 3, 2020 (ECF No. 40). Plaintiffs filed a summary judgment
21 motion last week on September 4, 2020 (ECF No. 42) challenging A.B.4’s ballot
22 receipt and acceptance laws. While fast moving, this case is nevertheless at its
23 initial stages and Defendant Cegavske has yet to answer Plaintiffs’ Amended
24 Complaint.⁴

25
26
27 ⁴ On August 7, 2020, Intervenors Democratic National Committee filed a
28 proposed answer with their Motion to Intervene. ECF No. 9.

Moreover, intervention would not prejudice any other party. Proposed tribal intervenors' interests in dismissal are aligned with Defendant Cegavske's and the DNC intervenor-defendant's motions to dismiss, and therefore inclusion of proposed tribal intervenors would not prejudice the outcome of those motions. (Proposed tribal intervenors take no position on these motions). Regarding Plaintiffs' very recently filed summary judgment motion, upon admission to the case tribal intervenor-defendants can provide a timely response to that motion. Finally, there has been no delay filing this motion to intervene. Proposed tribal intervenors recognize and support swift resolution of this case in anticipation of the upcoming general election. Thus, proposed tribal intervenors' motion to intervene is timely.

Second, proposed tribal intervenors have a significant protectable interest. "An applicant [for intervention] has a 'significant protectable interest' in an action if (1) it asserts an interest that is protected under some law, and (2) there is a 'relationship' between its legally protected interest and the plaintiff's claims." *California ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006). Here, acting as *parens patriae*, proposed tribal intervenors seek to protect their members' ability to vote. Absent A.B. 4's suspension of the ballot assistance bans, the bans would unjustly burden proposed tribal intervenors' members' ability to vote. Given the substandard mail service in tribal communities, Native Americans often rely on each other to pick up and drop off mail, including ballots. The ballot assistance bans criminalize this common practice, making it harder for Native Americans to cast their ballot. If the ballot assistance bans were put back into effect, the Pyramid Lake and Walker River communities would be uniquely and unduly burdened, diminishing their opportunity to vote. Given this risk to the fundamental right to vote, proposed tribal intervenors' interest is clearly significant. Indeed, as discussed in this motion's overview, absent many of

1 A.B.4's provisions, Native communities are at increased risk of
2 disenfranchisement.

3 Additionally, the rules around ballot receipt and acceptance laws
4 challenged by Plaintiffs recent summary judgment motion squarely implicates
5 tribal intervenor-defendants' interests because voters from Walker River and
6 Pyramid Lake have less access to a post office to ensure their ballots are
7 postmarked; mail coming from Walker River and Pyramid Lake takes longer to
8 arrive; and mail coming from tribal reservations has further to travel to reach the
9 county seat.

10 Native American tribes routinely protect their members' rights and their
11 tribal interests as *parens patriae*. See e.g. Complaint, *Western Native Voice v.*
12 *Stapleton*, Cause No. DV 20-0377 (Mont. Dist. Ct. Mar. 12, 2020) (Get out the
13 vote organizations and five tribes as *parens patriae* brought suit challenging
14 Montana's ballot assistance ban); *Spirit Lake Tribe v. Jaeger*, 2020 WL 625279
15 (D.N.D. Feb. 10, 2020) (denying Defendants' motion to dismiss Plaintiffs second
16 amended complaint) (Spirit Lake Tribe as *parens patriae* and individual
17 Plaintiffs brought suit challenging North Dakota's voter ID law); *Navajo Nation*
18 *v. San Juan Cty.*, 929 F.3d 1270, 1274 (10th Cir. 2019) (Case 2:12-cv-00039),
19 *aff'g*, 150 F. Supp. 3d 1253 (D. Utah 2015) (Navajo Nation as *parens patriae* and
20 individual plaintiffs brought suit challenging the election districts for both the
21 school board and county commission).

22 Third, "[o]nce an applicant has established a significantly protectable
23 interest in an action, courts regularly find that disposition of the case may, as a
24 practical matter, impair an applicant's ability to protect that interest." *Venetian*
25 *Casino Resort, LLC v. Enwave Las Vegas, LLC*, Case No. 2:19-CV-1197 JCM,
26 2020 WL 1539691, at *3 (D. Nev. Jan. 7, 2020) (*citing Lockyer*, 450 F.3d at 442).
27 Here, A.B. 4 instituted a series of key reforms that removed barriers to Native
28 American's access to the ballot box. If these reforms were invalidated, Native

1 Americans communities would again be vulnerable to imminent
2 disenfranchisement.

3 Fourth, proposed tribal intervenors cannot rely on the parties in this case
4 to adequately represent their interests. “Courts consider three factors when
5 assessing whether a present party will adequately represent the interests of an
6 applicant for intervention (1) whether the interest of a present party is such that
7 it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether
8 the present party is capable and willing to make such arguments; and (3) whether
9 a proposed intervenor would offer any necessary elements to the proceeding that
10 other parties would neglect. *California v. Tahoe Reg’l Planning Agency*, 792 F.2d
11 775, 778 (9th Cir.1986). “[T]he requirement of inadequacy of representation is
12 satisfied if the applicant shows that representation of its interests ‘may be’
13 inadequate,” and therefore “the burden of making this showing is minimal.”
14 *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983).

15 Like the Democratic Party intervenors in this case, proposed tribal
16 intervenors’ interests differ from Defendant Cegavske because she is less likely
17 to argue that some of A.B. 4’s policies are required to safeguard Nevadans’ and
18 Native American Nevadans’ right to vote. *Ohio River Valley Envtl. Coal., Inc. v.*
19 *Salazar*, No. 3:09-0149, 2009 WL 1734420, at *1 (S.D.W. Va. June 18, 2009)
20 (granting motion to intervene as of right where “difference in degree of interest
21 could motivate the [intervenor] to mount a more vigorous defense”). As the
22 Democratic Party intervenors pointed out in their motion to intervene, Defendant
23 Cegavske argued in favor of upholding the ballot collection bans in state court
24 litigation challenging the constitutionality of the bans. Motion to Intervene, ECF.
25 9, at 11-12. Indeed, Defendant Cegavske has made it known publicly that she is
26 supportive of the ballot assistance bans and recently urged Governor Sisolak to
27 implement additional burdensome regulations around ballot collection, in
28 defiance of the legislature. James DeHaven, *Top Elections Official Seeks*

1 *Oversight of ‘Ballot Harvesting’ Allowed Under New Nevada Law*, Reno Gazette
2 Journal (Aug. 18, 2020, 10:45 a.m.),
3 [https://www.rgj.com/story/news/politics/2020/08/18/cegavske-seeks-new-rules-](https://www.rgj.com/story/news/politics/2020/08/18/cegavske-seeks-new-rules-ballot-harvesting/5602290002/)
4 [ballot-harvesting/5602290002/](https://www.rgj.com/story/news/politics/2020/08/18/cegavske-seeks-new-rules-ballot-harvesting/5602290002/). Thus, while Defendant Cegavske may be willing
5 to defend laws passed by the Nevada legislature, it is probable that she is
6 unwilling to vigorously defend those parts of A.B.4 that relax regulations she
7 considers important, even if enforcing those regulations would create substantial
8 burdens on Native Americans.

9 Additionally, proposed tribal intervenors’ interests cannot be adequately
10 represented by the Democratic Party. While the Democratic Party and proposed
11 tribal intervenors may have some similar interests at the outset, it is possible for
12 these interests to diverge. Not all Native Americans are Democrats, and even
13 those Native voters who are Democrats comprise only a tiny subset of
14 Democratic voters in Nevada. If this case were to progress to settlement, the
15 interests of Native American voters from sparsely populated reservation
16 communities may conflict with those voters from more populous urban areas. It
17 is conceivable the Democratic Party may favor the majority of its constituents
18 over the specialized needs of a few Native American voters who may or may not
19 vote in their interests. *Venetian Casino Resort*, 2020 WL 1539691, at *4 (granting
20 intervention where intervenor and defendant “ha[d] a similar interest” but it was
21 “conceivable that [defendant’s] interest . . . could conflict with [intervenor’s]
22 interest”).

23 Moreover, Section 11 of A.B. 4 has specific provisions that only apply to
24 proposed tribal intervenors. Plaintiffs have sought to invalidate all of Section 11,
25 without care to exempt the tribal provisions that protect proposed tribal
26 intervenors’ interests. Proposed tribal intervenors have a right to vigorously
27 protect those unguarded interests. *Ctr. for Biological Diversity v. Berg*, 268 F.3d
28 810, 822 (9th Cir. 2001) (finding that even though the proposed intervenors may

1 share the same “ultimate objective” as the defendant, the intervenors have a right
 2 “to express their own unique private perspectives and in essence carry forward
 3 their own interests.”)

4 Finally, proposed tribal intervenors are intimately aware of the burdens
 5 imposed on them and are best situated to defend their own interests. Proposed
 6 tribal intervenors contend with the geographic challenges, the inadequate mail
 7 service, the socioeconomic barriers, and the increased risk of COVID-19 to their
 8 communities, every day.

9 In sum, proposed tribal intervenors have met all four requirements for
 10 intervention as of right under Rule 24(a)(2).

11 **II. In the Alternative, Proposed Tribal Intervenors Request**

12 **Permission to Intervene**

13 Even if this Court found intervention as of right was not warranted,
 14 proposed tribal intervenors satisfy the requirements for permissive intervention.
 15 Rule 24(b) permits this Court to allow intervention by anyone who “submits a
 16 timely motion and ‘has a claim or defense that shares with the main action a
 17 common question of law or fact.’” *Paher v. Cegavske*, Case No. 3:20-cv-00243-
 18 MMD-WGC, 2020 WL 2042365, *3 (D. Nev. Apr. 30, 2020) (quoting Fed. R.
 19 Civ. P. 24(b)(1)(B)).⁵ Because a court “has discretion in deciding whether to
 20

21
 22 ⁵ In addition, an applicant for intervention must also show that the court “has an
 23 independent basis for jurisdiction.” *Id.* (citing *Donnelly v. Glickman*, 159 F.3d
 24 405, 412 (9th Cir. 1998)). However, such a showing is unnecessary for the
 25 proposed tribal intervenors as the requirement does not apply in “federal-
 26 question cases when the proposed intervenor is not raising new claims.”
 27 *Freedom From Religion Found., Inc. v. Geithner*, 644 F.3d 836, 844 (9th Cir.
 28 2011).

1 permit intervention, it should consider whether intervention will cause undue
 2 delay or prejudice to the original parties, whether the applicant's interests are
 3 adequately represented by the existing parties, and whether judicial economy
 4 favors intervention." *Paher*, 2020 WL 2042365, at *3 (citing *Venegas v. Skaggs*,
 5 867 F.2d 527, 530–31 (9th Cir. 1989)).

6 As demonstrated in above, proposed tribal intervenors have
 7 submitted a timely motion and their interests are not adequately represented in
 8 this action by Defendant Cegavske or the Democratic Party. Proposed tribal
 9 intervenors share common questions of law and fact with Plaintiffs' claims, such
 10 as whether A.B. 4 violates the equal protection clause or the right to vote.

11 Further, intervention will not cause undue delay or prejudice to the
 12 original parties because proposed tribal intervenors have a strong interest in a
 13 timely resolution of this action in advance of the November Election to allow for
 14 the implementation of A.B. 4. In fact, proposed tribal intervenors seek to
 15 intervene for the very purpose of an expeditious resolution of the Plaintiffs'
 16 claims so that their communities can adequately prepare for the upcoming
 17 election.

18 **REQUEST TO EXPEDITE BRIEFING SCHEDULE**

19 Proposed tribal intervenors believe that expeditious resolution of the Motion
 20 would serve the interests of judicial efficiency and ensure that proposed tribal
 21 intervenors are able to protect their rights and interests. Proposed tribal
 22 intervenors respectfully request the following briefing schedule:

- 23 • Responses to proposed tribal intervenors' Motion to Intervene as
 24 Defendants shall be filed on or before Friday September 18, 2020; and
- 25 • Proposed tribal intervenors' reply briefs, if any, shall be filed on or
 26 before Monday, September 21, 2020.

CONCLUSION

For the reasons stated above, proposed tribal intervenors respectfully request that the Court grant their motion to intervene as a matter of right under Rule 24(a)(2) or, in the alternative, permit them to intervene under Rule 24(b). Proposed tribal intervenors also request an expedited briefing schedule on their motion so as not to cause undue delay due to the accelerated nature of this case.

Respectfully submitted this 11th day of September, 2020.

LAW OFFICES OF WES WILLIAMS JR., P.C.

/s/ Wes Williams Jr.
3119 Lake Pasture Road
P.O. Box 100
Schurz, Nevada 89427
wwilliamslaw@gmail.com

NATIVE AMERICAN RIGHTS FUND

Jacqueline De León, Esq. (*pro hac vice*
forthcoming)
1506 Broadway
Boulder, CO 80302-6296

Samantha B. Kelty, Esq. (*pro hac vice*
forthcoming)
1514 P St NW Ste. D
Washington, DC 20005

Attorneys for Proposed Intervenor-Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of September, 2020, a true and correct copy of the foregoing MOTION TO INTERVENE was served via the United States District Court's CM/ECF system on all parties or persons requiring notice.

/s/ Wes Williams Jr.